



Senate Concurrent Resolution No. 62

Data Response - Lines 28 - 33

Purpose

This report responds to lines 28-33 of the State Concurrent Resolution No. 62: Establishing the Division of Developmental Disabilities Services Task Force, which reads: (8) A synopsis from the Division of the occurrence of each of the following from 2015 through 2019

- a. The total number of provider violations
- b. The number of provider violations by the type of violation
- c. The number of providers placed on probation
- d. The number of appeals
- e. The ultimate disposition of provider appeals

**On 10/04/2019, the Division requested clarity on what was meant by "Provider Violations". A response from the DDDS Task Force Subcommittee chair on 10/09/2019 indicated that "Provider Violations" referred to "substantiated incidents".*

Definitions

The following definitions are cited from Title 16, 2103 Reportable Incident Management and Corrective Measures.

Abuse - Means any of the following:

1. "Emotional Abuse" means the use of oral, written, or gestured language that includes disparaging and derogatory terms to or within the hearing distance of service recipients, residents or their families, regardless of their age, ability to comprehend, or disability. "Emotional abuse" includes the violation of resident rights and privacy through the posting of inappropriate materials on social media. "Emotional abuse" includes all of the following: ridiculing, demeaning, humiliating, bullying, or cursing at a patient or resident; punishment or deprivation; or threatening a patient or resident with physical harm.
2. "Physical Abuse" means the infliction of pain or injury to a service recipient. This includes, but is not limited to, hitting, kicking, punching, slapping or pulling hair. When any act constituting physical abuse has been proven, the infliction of pain is presumed. These actions may be taken by staff to service recipient; service recipient to service recipient (sometimes referred to as resident to resident); or other to service recipient.

3. "Sexual Abuse" means but is not limited to: a) any sexual contact, sexual penetration, or sexual intercourse by an employee or contractor with a service recipient, as defined in §761 of Title 11. It shall be no defense that the sexual contact, sexual penetration, or sexual intercourse was consensual; b) non-consensual service recipient to service recipient; or c) non-consensual other to service recipient.

Determination – The final categorization of an investigated incident.

Financial Exploitation – means the illegal or improper use, control over, or withholding of a service recipient's property, income, resources, or financial rights by another person, whether through intent to exploit or through benign neglect of financial management laws, regulations, policies or procedures. Financial Exploitation includes, but is not limited to, use of deception, intimidation or undue influence by a person or entity in a position of trust and confidence with a service recipient to obtain or use the service recipient's resources in a manner not in the best interest of the service recipient. In this report, this occurs exclusively as Mismanagement of Funds.

Medical Administration Error - Means a deviation from the prescriber's medication order in administration of a prescription medication.

Medication Diversion - means the knowing or intentional interruption, obstruction, or alteration of the delivery, or administration of a prescription drug to a service recipient, if both of the following apply:

1. The prescription drug was prescribed or ordered by a licensed independent prescriber for the service recipient.
2. The interruption, obstruction, or alteration occurred without a change in the prescription or order of a licensed independent practitioner.

Mistreatment - means the inappropriate application on a service recipient of medications, isolation, or physical or chemical restraints as negative reinforcements, punishment, or retaliation for behaviors.

Neglect - Means any of the following:

1. Lack of attention to the physical needs of a service recipient to include but not be limited to toileting, bathing, nutrition and safety;
2. Failure to report problems or changes in health problems or health condition to an immediate supervisor or nurse;
3. Failure to carry out a service recipient's person centered plan that resulted in an adverse outcome;
4. A knowing failure to provide adequate staffing which results in an adverse outcome to a service recipient.

No- Fault – means a type of incident that was verified to have occurred but deemed to have happened without a breach in policy, protocol, or standard of care.

Significant Injury – means any of the following:

1. Injury from an incident of unknown source in which the initial investigation or evaluation supports the conclusion that the injury is suspicious. Circumstances which may cause an injury to be suspicious are: the extent of the injury, the location of the injury (e.g. the injury is located in an area not generally vulnerable to trauma), the number of injuries observed at one time; or the incidence of injuries over time;
2. Injury which results in transfer to an acute care facility for treatment or evaluation or which requires periodic neurological reassessment of the service recipient's clinical status by professional staff for up to 24 hours;
3. Areas of contusions or bruises caused by staff to a service recipient during ambulation, transport, transfer, bathing, or other activity in the course of providing services;
4. Significant error or omission in medication/treatment, including medication diversion, which causes the resident discomfort, jeopardizes the service recipient's health and safety or requires periodic monitoring for up to 48 hours;
5. A burn greater than first degree occurs;
6. Any serious, unusual, or life-threatening injury.

Substantiated – When a reasonable person weighing the facts and circumstances has concluded that the incident did occur and enough information is available to reasonably assign fault or determine no-fault for the incident.

Unsubstantiated – When a reasonable person weighing the facts and circumstances has concluded that the incident did not occur. In some cases, DDS may require a quality improvement plan to address conditions discovered as part of an investigation.

FY 2015 (July 2014 – June 2015)

a. The total number of provider violations: 190

b. The number of provider violations by the type of violation: 190

Determination	Count
Abuse - Emotional	23
Abuse - Physical	0
Abuse - Sexual	0
Attempted Suicide	1
Death - Unanticipated	1
Financial Exploitation	14
Medication Administration	
Error	39
Neglect	96
Other - Mistreatment	8
Significant Injury	8
Total	190

c. The number of providers placed on probation: 0

The DDDS Probation Protocol was implemented during the last quarter of FY 2015

d. The number of appeals: N/A

e. The ultimate disposition of provider appeals: N/A

FY 2016 (July 2015 to June 2016)

a. The total number of provider violations: 211

b. The number of provider violations by the type of violation: 211

Determination	Count
Abuse - Emotional	12
Abuse - Physical	15
Abuse - Sexual	2
Attempted Suicide	0
Death - Unanticipated	2
Financial Exploitation	14
Medication Administration	
Error	66
Neglect	87
Other - Mistreatment	10
Significant Injury	3
Total	211

c. The number of providers placed on probation: 0

d. The number of appeals: N/A

e. The ultimate disposition of provider appeals: N/A

FY 2017 (July 2016 – June 2017)

**The Division has identified errors in data collection for this fiscal year, and acknowledges that the data for this year may not be representative of the full number of reportable incidents. This was the final full year in which the Division used spreadsheets to track incident data. This method relies on staff to manually enter data into the spreadsheets.*

a. The total number of provider violations: 137*

b. The number of provider violations by the type of violation: 137*

Determination	Count
Abuse - Emotional	14
Abuse - Physical	11
Abuse - Sexual	0
Attempted Suicide	0
Death - Unanticipated	0
Financial Exploitation	7
Medication	
Administration Error	51
Neglect	47
Other - Mistreatment	3
Significant Injury	4
Total	137

c. The number of providers placed on probation: 1 (1 instance of probation extension)

**Per the Division's Probation Protocol, a DDDS Contractor may be put on probation status due to substantiated incidents, poor individual outcome surveys, provisional certifications, fiscal practices resulting in misappropriation of funds, or any other event that DDDS Leaderships believes requires a rigorous review of an organization or program.*

d. The number of appeals: 1

e. The ultimate disposition of provider appeals:

No changes made to probation status from appeal. Request to rescind probation denied.

FY 2018 (July 2017 to June 2018)

FY18 was the first fiscal year using an electronic incident management system.

a. The total number of provider violations: 214

b. The number of provider violations by the type of violation: 214

Determination	Count
Abuse - Emotional	16
Abuse - Physical	14
Abuse - Sexual	2
Financial Exploitation	10
Medication Administration Error	71
Medication Diversion	2
Neglect	61
Other - Attempted Suicide	4
Other - Criminal Conduct by Staff	0
Other - Emergency Situations that Result in Harm or Risk	0
Other - Mistreatment	3
Significant Injury	31
Total	214

*July 2018
Harmony
not all using
Harmony*

*- 2016 PM46 -
current iteration.*

c. The number of providers placed on probation: 6 (1 instance of extending an existing probation)

**Per the Division's Probation Protocol, a DDDS Contractor may be put on probation status due to substantiated incidents, poor individual outcome surveys, provisional certifications, fiscal practices resulting in misappropriation of funds, or any other event that DDDS Leaderships believes requires a rigorous review of an organization or program.*

d. The number of appeals: 3 (1 provider appealed 2 times)

e. The ultimate disposition of provider appeals:

- 1 - Probation adjusted to prohibit new referrals for Residential Habilitation Services only.
- 2 - No changes made to probation status from appeal. Requests to rescind probation denied.
- 3 - No changes made to probation status from appeal. Requests to rescind probation denied.

FY 2019 (July 2018 – June 2019)

**FY19 was the first fiscal year using new subcategories for substantiated incidents: Substantiated and Substantiated: No Fault. Substantiated: No Fault determinations are not reflected in this data, as they were determined to have occurred without a breach in policy, protocol, or standard of care.*

a. The total number of provider violations: 150

b. The number of provider violations by the type of violation: 150

Determination	Count
Abuse - Emotional	9
Abuse - Physical	13
Abuse - Sexual	1
Financial Exploitation	10
Medication Administration Error	44
Medication Diversion	1
Neglect	57
Other - Attempted Suicide	0
Other - Criminal Conduct by Staff	3
Other - Emergency Situations that Result in Harm or Risk	3
Other - Mistreatment	4
Significant Injury	5
Total	150

c. The number of providers placed on probation: 1 (5 instances of extending an existing probation)

**Per the Division's Probation Protocol, a DDDS Contractor may be put on probation status due to substantiated incidents, poor individual outcome surveys, provisional certifications, fiscal practices resulting in misappropriation of funds, or any other event that DDDS Leaderships believes requires a rigorous review of an organization or program.*

d. The number of appeals: 2

e. The ultimate disposition of provider appeals:

1 – Reduced probationary period to the date range: 10/16/18-03/16/19.

2 - No changes made to probation status from appeal. Request to rescind probation denied.